

By: Jetton

H.B. No. 4331

A BILL TO BE ENTITLED

AN ACT

relating to creating criminal offenses; providing a civil penalty for paid vote harvesting.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 276, Election Code, is amended by adding Sections 276.014 and 276.015 to read as follows:

Sec. 276.014. PAID VOTE HARVESTING. (a) In this section and Section 276.015, "vote harvesting services" means direct interaction with one or more voters in connection with an official ballot, a ballot voted by mail, or an application for ballot by mail, intended to deliver votes for a specific candidate or measure.

(b) A person commits an offense if the person, directly or through a third party, knowingly provides or offers to provide the vote harvesting services in exchange for compensation or other benefit, including benefits to a party whose welfare is of interest to the person.

(c) A person commits an offense if the person, directly or through a third party, knowingly provides or offers to provide compensation or other benefit to a person, or to another party whose welfare is of interest to the person, in exchange for the vote harvesting services.

(d) A person commits an offense if the person knowingly collects or possesses a ballot voted by mail or official carrier

1 envelope from a voter in connection with the vote harvesting
2 services.

3 (e) This section does not apply to acts promoting a
4 candidate or measure that do not involve direct interaction with:

5 (1) an application for ballot by mail, in the presence
6 of the voter; or

7 (2) a voter's official ballot, ballot voted by mail, or
8 carrier envelope.

9 (f) In this section, compensation in exchange for the vote
10 harvesting services is inferred if a person who performed the vote
11 harvesting services for a candidate or campaign solicits, receives,
12 or is offered compensation from the candidate or campaign, directly
13 or through a third party, for services other than the vote
14 harvesting services provided.

15 (g) An offense under this section is a felony of the third
16 degree.

17 (h) If conduct that constitutes an offense under this
18 section also constitutes an offense under any other law, the actor
19 may be prosecuted under this section, the other law, or both.

20 Sec. 276.015. CIVIL LIABILITY FOR UNLAWFUL VOTE HARVESTING.

21 (a) A person who commits an offense under Section 276.014 is liable
22 to any candidate harmed by the vote harvesting services for damages
23 and penalties that may be awarded under Subsection (c).

24 (b) A person is harmed by the vote harvesting services if
25 the person can demonstrate that:

26 (1) the person was a candidate for office;

27 (2) the liable party committed an offense under

1 Section 276.014; and

2 (3) another candidate seeking the same office as the
3 person received a vote attributable to the offense, regardless of
4 whether the other candidate knowingly participated in the vote
5 harvesting services.

6 (c) A litigant who prevails in an action under Subsection
7 (b) shall recover from any person who committed the unlawful vote
8 harvesting services damages in an amount including:

9 (1) the amount of any compensation paid to or received
10 by the person in exchange for the vote harvesting services;

11 (2) the fair market value of any benefit given or
12 received in exchange for the vote harvesting services;

13 (3) a penalty in the amount of \$25,000; and

14 (4) reasonable attorney's fees, court costs, witness
15 fees, and deposition fees.

16 (d) A litigant who prevails in an action under Subsection
17 (b) and shows that the number of voters contacted by the vote
18 harvesting services exceeds the number of votes by which the
19 litigant lost the election shall recover from the person liable for
20 the unlawful vote harvesting services punitive damages in an amount
21 including:

22 (1) any of the litigant's campaign expenditures
23 properly filed on a campaign finance report in connection with the
24 election; and

25 (2) any fees and expenses incurred by the litigant in
26 filing and securing a place on the ballot.

27 (e) A person who commits an offense under Section 276.014

1 and is found liable under this chapter or other law for any amount
2 of damages arising from the vote harvesting services is jointly
3 liable with any other defendant for the entire amount of damages
4 arising from the vote harvesting services.

5 (f) The cause of action created by this section is
6 cumulative to any other remedy provided by common law or statute.

7 (g) The expedited actions process created by Rule 169, Texas
8 Rules of Civil Procedure, does not apply to an action under this
9 section.

10 (h) Chapter 27, Civil Practice and Remedies Code, does not
11 apply to a cause of action under this section.

12 (i) A cause of action under this section may be brought in
13 the county where any part of the vote harvesting services occurred.

14 SECTION 2. The changes in law made by this Act apply
15 beginning with an application for a ballot to be voted by mail for
16 an election held on or after January 1, 2022.

17 SECTION 3. This Act takes effect September 1, 2021.